

REMARKS

Claim 1-30 are pending. Claims 1, 10, 11, 18, 22, 26, and 27 have been amended. Claims 28-30 are new. Claim 10 was amended to correct a minor informality. Support for the claim amendments for claims 1, 11, 18, 22, 26, and 27 and the new claims 28-30 is found in the specification at least in paragraphs [0004], [0030], [0032], [0033] and [0034]. No claims have been cancelled in this paper. Claims 1, 11, 18, 22, 26, and 27 are independent claims.

In the Office Action, claims 1-10 were rejected under 35 U.S.C. § 101 because the claimed invention was allegedly directed to non-statutory subject matter. Claims 1-5 and 7-27 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Published Application No. 2004/0136377 A1 to Miyazaki et al. ("Miyazaki"). Claim 6 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Miyazaki in view of U.S. Published Application No. 2005/0083944 A1 to Liu et al. ("Liu").

In view of the following arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicant reserves the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicant expressly does not acquiesce to the taking of Official Notice, and respectfully requests that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

I. Claim Rejections – 35 U.S.C. §101

Section 101 states that "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title." However, claims directed to nothing more than abstract ideas, such as mathematical algorithms, natural phenomena,

and laws of nature fall into a judicial exception to Section 101, and are not eligible for patent protection. *Diamond v. Diehr*, 450 U.S. at 185, 209 USPQ at 7.

Additionally, the USPTO has promulgated new standards in the form of “Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility” (October 26, 2005). The Interim Guidelines explain that claims falling within the judicial exception may nonetheless define patentable subject matter where the “claimed invention otherwise produces a useful, concrete and tangible result.” *See Interim Guidelines at page 19*. Moreover, “[t]he tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing.” *Id.* at 21.

The Examiner asserted that, “Claims 1-10 as recited constitute nonfunctional descriptive material and thus do not fall into any of the four statutory categories of invention. The respective measurement report formats claimed are merely arrangements of data that provide no functionality.” Claim 1, as amended, now recites in part “a packet in a computer-readable medium,” which is a recitation of a physical device. (Emphasis added.) Further, the invention as recited in claim 1 produces at least the useful result of “improving header compression technology to accommodate problems such as packet re-ordering and packet loss.” (Specification, page 2, lines 25-26.) Thus, the Examiner’s section 101 rejection has been fully addressed and should be withdrawn.

II. Claim Rejections – 35 U.S.C. §102(b)

To anticipate a claim, the reference must teach every element of the claim. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 1-5 and 7-27 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Miyazaki. Applicant respectfully traverses the rejection.

A. Claims 1, 11, 18, 22, 26, and 27**1. Independent Claim 1**

The Examiner handled the rejection of claims 1, 2, 11, 18, 22, 26, and 27 together, without breaking out which claim recitations of which claims were allegedly taught or suggested by which sections of Miyazaki. Indeed, the Examiner did not address the specific language of claim 1, instead making general statements about the disclosure of Miyazaki. At least because the Examiner failed to specifically address each claim recitation of claim 1, the Examiner failed to meet his burden in showing each and every element as set forth in the claim to be found in a single prior art reference. Thus, for at least this reason the rejection of claim 1 should be withdrawn and the claim allowed.

Further, claim 1, as amended, recites additional patentable subject matter. Claim 1 recites:

A packet in a computer-readable medium, comprising:

a compressed header comprising:

a first value for deriving an uncompressed header for said packet based on a second uncompressed header; and

a second value for deriving said uncompressed header based on a third uncompressed header,

where said uncompressed header, said second uncompressed header, and said third uncompressed header are associated with different packets arriving in any order.

(Emphasis added.) The invention, as recited in Applicant's claim receives "packets arriving in any order," maintaining the packets until suitable information is received to allow for them to be uncompressed. In contrast, Miyazaki fails to teach or suggest out-of-order packet retrieval as anything other than an error condition. (Miyazaki, paragraph [0412].) Indeed, Miyazaki teaches away from "packets arriving in any order," at least because Miyazaki teaches to discard a packet as an "error packet" when it is received and cannot immediately be restored. (*Id.*) Thus, Miyazaki in fact teaches away from out-of-order packet retrieval generally as anything other than an error, and thus fails to anticipate at least these recitations of Applicant's claim 1.

Thus, for at least these reasons, claim 1 is not anticipated by Miyazaki and the Examiner's rejection of claim 1, as well as all claims depending therefrom, should be withdrawn.

2. Independent claims 11, 18, 22, 26, and 27

As amended, independent claim 11 recites in part "maintaining said packet at said second network node until at least one of said second uncompressed header and said third uncompressed header are made available." Similar to the arguments mentioned above with regard to claim 1, Miyazaki fails to teach or suggest at least these recitations of claim 11. Miyazaki in fact teaches away from "maintaining said packet at said second network node until at least one of said second uncompressed header and said third uncompressed header are made available." Instead, Miyazaki teaches to discard a packet as an "error packet" when it is received and cannot immediately be restored. (Miyazaki, paragraph [0412].) Thus, for at least reasons similar to those described above in relation to independent claim 1, Miyazaki fails to anticipate at least these recitations of independent claim 11.

Similarly, as amended independent claim 22 recites in part "maintaining said packet until at least one of said plurality of packet headers is made available." Although claim 22 recites different details than claim 11, Miyazaki still lacks the required teachings. Thus, for reasons similar to those described above in relation to claims 1 and 11, Miyazaki fails to anticipate at least these recitations of independent claim 22.

Further, as amended, independent claims 18 and 26 recite in part "wherein said packet is capable of being received out of order of at least one of said plurality of transmitted headers." Although claim 18 recites a method and claim 26 recites a computer program product embodied on a computer-readable medium, as mentioned, above Miyazaki lacks the required teachings. Thus, for reasons similar to those described above in relation to claims 1 and 11, Miyazaki fails to anticipate at least these recitations of claims 18 and 26.

Moreover, as amended, independent claim 27 recites in part to "maintain said packet until at least one of said plurality of packets headers is made available." Although claim 27 recites a

computer program product embodied on a computer-readable medium, Miyazaki lacks the required teachings. Thus, for reasons similar to those described above in relation to claims 1 and 11, Miyazaki fails to anticipate at least these recitations of claim 27.

Therefore, independent claims 11, 18, 22, 26, and 27, as well as all claims depending therefrom, are not anticipated by Miyazaki. As a result, the Examiner's rejection of independent claims 11, 18, 22, 26, and 27, as well as all claim depending therefrom, should be withdrawn.

B. Dependent Claims 2-5, 7-10, 12-17, 19-21, 23-25, and 28-30

Claims 2-5, 7-10, 12-17, 19-21, 23-25, and 28-30 are in condition for allowance at least because they are dependent from one of the independent claims 1, 11, 18, 22, 26, or 27. Nevertheless, these dependent claims also recite independently patentable subject matter.

For example, claims 19 and 23 recite in part, "wherein a predetermined number of transmitted packet headers are stored." The Examiner cited the abstract of Miyazaki as disclosing these claim recitations. (Office Action, page 6.) However, in contrast to "wherein a predetermined number of transmitted packet headers are stored," the cited section of Miyazaki merely discloses "predetermined transmission data" without regard to "a predetermined number." Thus, Miyazaki fails to anticipate at least these recitations of claims 19 and 23, and the Examiner's rejection of claims 19 and 23 should be withdrawn.

III. Claim Rejections – 35 U.S.C. §103(a)

The basic requirements for the Patent and Trademark Office to establish *prima facie* obviousness are as follows:

To establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when

combined) must teach or suggest all the claim limitations. (MPEP § 2143, emphasis added)

Claim 6 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Miyazaki in view of Liu. Applicant respectfully traverses the rejection.

Claim 6 depends from claim 1, and thus is patentable for at least the reasons mentioned above with regard to independent claim 1. Moreover, claim 6 recites separately patentable subject matter. Claim 6 recites in part “wherein said first value and said second value are encoded by at least one of: a variable-length code and a sign-based code.” The Examiner stated in the section 102 rejection section of the Office Action that “paragraph 443 ‘data length information’” of Miyazaki discloses these elements of claim 6, however the Examiner did not reject claim 6 under section 102. (Office Action, pages 5-6.) Instead, the Examiner rejected claim 6 under section 103, where in contrast, the Examiner admitted that Miyazaki fails to teach or suggest the aforementioned claim recitation of claim 6. (Office Action, pages 7-8.) The Examiner further stated that paragraph [0052] of Liu teaches the recitation of claim 6. (Office Action, page 8.) In any event, Applicant respectfully disagrees that Miyazaki or Liu, taken alone or together, teach or suggest “wherein said first value and said second value are encoded by at least one of: a variable-length code and a sign-based code” as recited by Applicant’s claim 6.

Miyazaki merely discloses difference data, difference data length information, and compression type information, where the compression type is a “difference ... from the reference data.” (Miyazaki, paragraph [0433], [0447].) However, Miyazaki fails to teach or suggest “variable-length code” or “sign-based code,” let alone “wherein said first value and said second value are encoded by at least one of: a variable-length code and a sign-based code,” as recited in claim 6. Further, as mentioned above, the Examiner also admitted Miyazaki fails to teach or suggest these recitations of claim 6.

Moreover, Liu fails to cure this admitted deficiency of Miyazaki. In Liu, “first addresses data carried in a packet stream may be compressed using the second addresses data carried in another packet stream,” where “the two packet streams carry substantially similar but not exactly

the same IP addresses.” (Liu, paragraph [0030].) “The substantially similar portion may comprise, for example, [a] similar prefix.” (*Id.*) To this end Liu further teaches to include a “prefix-len” field in a header to indicate, “the length, in units of bits, of the prefix that are same between [the address to be compressed] and [the address of the existing content].” (Liu, paragraphs [0032], [0049].) Indeed, Liu teaches that this “prefix-len field can be encoded in many ways,” including “linear encoding with fixed length,” or “variable length encoding or Huffman encoding.” (Liu, paragraph [0052].) Further, Liu fails to make any teaching or suggestion of “a sign-based code” as recited in Applicant’s claim 6.

Although Liu does disclose “variable length encoding” of the “prefix-len,” Liu fails to teach or suggest “variable length encoding” of the “said first value and said second value,” as recited in claim 6. The “value” recitations of dependent claim 6 are recited in independent claim 1, from which claim 6 depends. These values are recited as “value[s] for deriving an uncompressed header for said packet.” In contrast, the “prefix-len” field of Liu is merely used to indicate the length of similarity between IP address fields, and thus cannot be used “for deriving an uncompressed header for said packet,” as required by Applicant’s claims. In fact, Liu teaches away from “wherein said first value and said second value are encoded by at least one of: a variable-length code and a sign-based code,” by teaching instead to encode only a portion of packet information, not an entire value. At least because Liu merely teaches to perform “variable length encoding” on a “prefix-len field” and not a “value,” Liu fails to teach or suggest at least “wherein said first value and said second value are encoded by at least one of: a variable-length code and a sign-based code.”

Thus, Miyazaki and Liu, taken alone or in any combination, fail to teach or suggest at least “wherein said first value and said second value are encoded by at least one of: a variable-length code and a sign-based code” as recited in claim 6. Moreover, Liu teaches away from “wherein said first value and said second value are encoded by at least one of: a variable-length code and a sign-based code,” as discussed above. Accordingly, Miyazaki and Liu, taken alone or together, do not teach or suggest each and every claim element recited in claim 6. Therefore, the Office Action fails to establish a *prima facie* case of obviousness against claim 6, and the rejection of this claim should be withdrawn and the claim allowed for at least the reasons stated above.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 65632-0527 from which the undersigned is authorized to draw.

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Respectfully submitted,

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